Anti-Money Laundering:
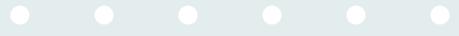## Current Trends, Prosecutions, and the Challenges presented by Crypto Assets (Specialty)

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June, 2025

Nairobi Kenya

Learning Objectives

01 Money Laundering – The basics

02 Jurisdictional Context

03 Investigating ML Cases

04 Trade Based Money laundering
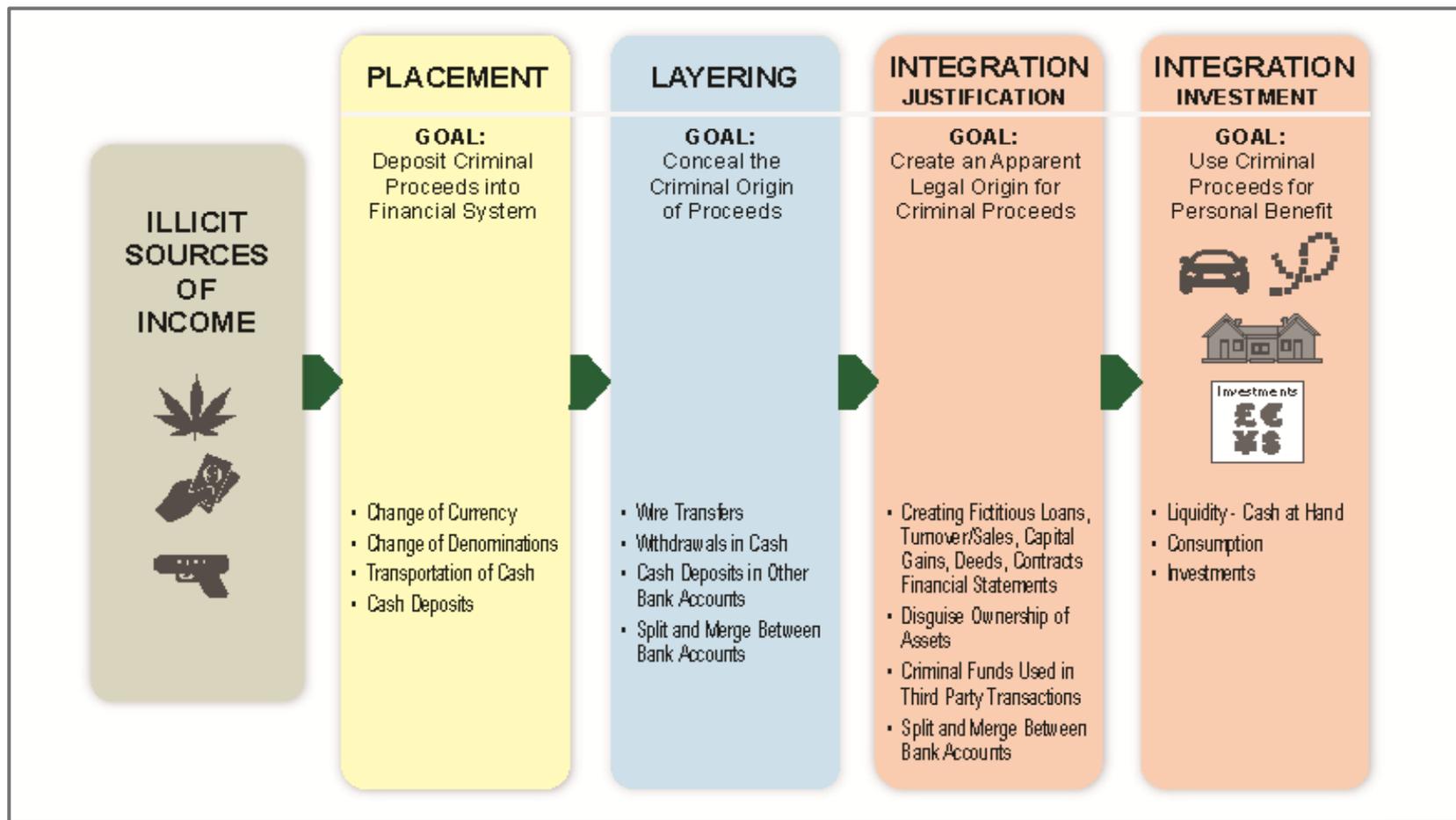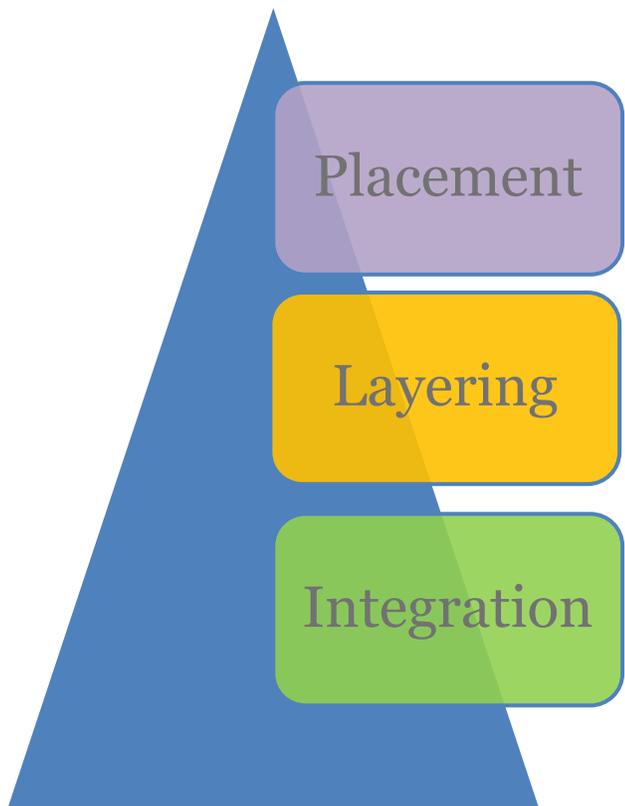
04 Crypto in ML

Basics

INTERPOL

*"Any act or attemted act to conceal or disguise the identity of **illegally** obtained proceeds so that they appear to have originated from legitimate sources".*

FATF

"The processing of criminal proceeds to disquise their illegal origin in order to legitimise the ill-gotten gains of crime".

TRADITIONAL MODEL

Money laundering trends

- Technological advancement, in particular within financial systems, offers broader opportunity for criminals to launder their proceeds.

- Financial Systems have enabled;

  - Money Laundering as a service,

  - Funnel accounts - illicit funds are deposited into an account in one location

  - Offshore bank accounts of foreign legal entities continue to be used to make it difficult to track money flows.

  - Third Party Money Laundering Groups – Mule Networks

Sector - Specific Insights Trends

- Cash-Based Laundering – Still quite significant

- Real Estate: illicit funds laundered through real estate estimated at around $1.6 trillion annually. worldmetrics.org+1coinlaw.io+1

- Cryptocurrency: In 2022, approximately $23.8 billion was laundered through cryptocurrencies, marking a 68% increase from the previous year .invezz.com

- Trade-Based Money Laundering (TBML): TBML accounted for over $1 trillion in illegal activity across global markets in 2023 .coinlaw.io

- Money Laundering as a Service

Money Laundering - Kenya's Scenario

- A report published in March 2019 by the United States Department of State Bureau for International Narcotics and Law Enforcement Affairs said money laundering in Kenya occurs in the formal and informal sectors, fueled by domestic and foreign criminal operations.

- Kenya's banking and financial sectors as well as mobile banking remains vulnerable to money laundering and financial fraud," says the report.

- The Sentry: Kenya has experienced significant capital flight with over $10.6 billion lost since 1970 through illicit financial flows, including funds moved to banking secrecy havens.

  https://thesentry.org/wp-content/uploads/2021/10/KenyaIllicitFinance-TheSentry-Oct2021.pdf

Money Laundering - Kenya's Scenario

- Financial Action Task Force (FATF) grey listed on February 23, 2024, due deficiencies in (AML) & (CFT) frameworks.

- Reasons:

  - Lack of Effective Prosecutions

  - Terrorist Financing Oversight

  - Regulatory Gaps in Emerging Sectors - absence of regulations for cryptocurrencies and virtual asset service providers (VASPs), significant vulnerabilities

  - Inadequate Beneficial Ownership Transparency.

  - Weaknesses in Supervisory Frameworks

Key Findings from Kenya's National Risk Assessment (NRA)

- High-Risk Sectors Identified:

  – Real Estate – Illicit Investments & ML

  – Banking and Financial Services: - Poor due diligence & monitoring

  – Informal Money Transfer Systems

- Challenges in Law Enforcement Coordination

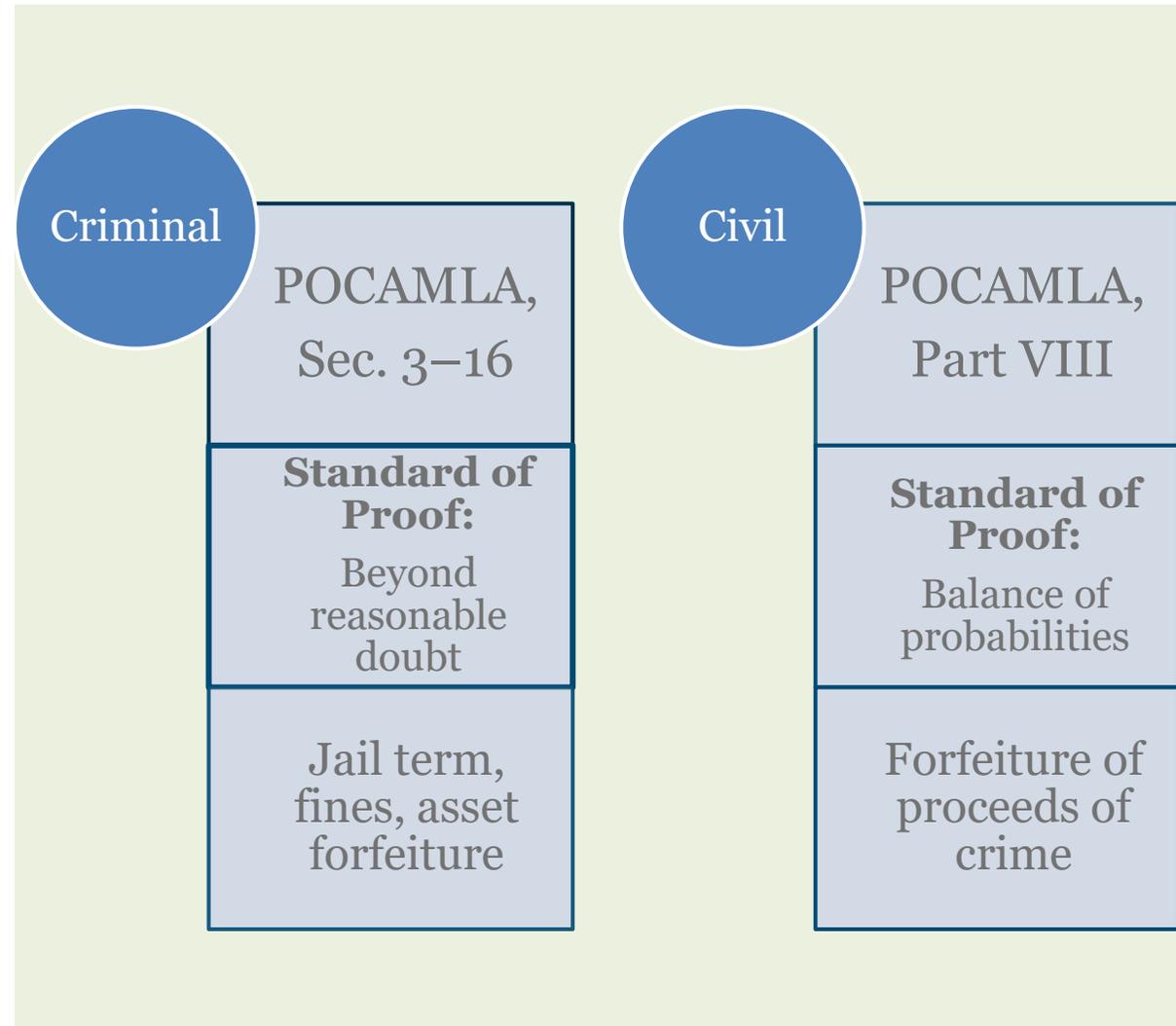- Limited Use of Financial Intelligence

https://www.menti.com/alzsun35jg4e

1. Is money laundering a stand alone offence in your country?

2. Is it a Criminal Offence(Penal code or specialized law) or a Civil Offence?

3. In your experience or perception as a Law Enforcement Officer, what is the greatest challenge in investigating ML cases?

ML as a stand alone offence

- In Kenya, Money Laundering is a stand alone offence under POCAMLA.

- POCAMLA provides for both Criminal and Civil Proceedings as a remedy for ML.

- However, It is still very difficult to prosecute ML on its own.

- Why - Money laundering is a derivative crime.

Criminal	Civil
POCAMLA, Sec. 3–16	POCAMLA, Part VIII
Standard of Proof: Beyond reasonable doubt	**Standard of Proof:** Balance of probabilities
Jail term, fines, asset forfeiture	Forfeiture of proceeds of crime

Predicate Offences

- Predicate crimes Refers to:
  - Actions that provide funds for money laundering;
  - Offence whose proceeds may become the subject of any of the money-laundering offences
- The criminal activity from which the proceeds of the crime are derived.
  - Corruption, corrupt conduct, bribery, and all those other offences under Anti-Corruption and Economic Crimes Act (ACECA),
  - KRA – Tax Evasion and Tax Based ML
  - Offences under the Penal Code (Fraud, Theft, Forgery),
  - Offences under Wildlife Act,
  - Offences under Narcotic Drugs and Psychotropic Substances Control Act,
  - Cyber crime Act

Prosecuting ML Cases

i. Republic v. Wycliffe Mwalati & 6 Others (NYS Scandal)

- Charges: Fraud, theft, and money laundering.
- Amounts: **Ksh. 115,534,000**
- **Case Outcomes:**
  - **Convictions**: Two former NYS officials, former director of finance and principal supply chain management office), were convicted for their roles in processing fraudulent payments.
  - **Acquittals**: Several key suspects, including former NYS Director, were acquitted due to insufficient evidence.
  - **Asset Forfeiture**: Despite some acquittals, the courts ordered the forfeiture of assets linked to the scandal.
  - Retrials – Some of the accused have been subject to retrials

ii. Civil Forfeiture

- Mr. Ali Abdi Ibrahim is suspected of engaging in fraudulent transactions with the **Mandera County Government**.

- **Nature of Proceedings**

  - There were **no formal criminal charges**,

  - the proceedings were **civil in nature**,

  - initiated under the **Proceeds of Crime and Anti-Money Laundering Act (POCAMLA)**.

  - **Orders sought - Civil Forfeiture**: The ARA filed an application under Sections 90 and 92 of POCAMLA, seeking orders to declare the funds in Mr. Ibrahim's accounts as proceeds of crime and to forfeit them to the government.

Assets Recovery Agency v. Ali Abdi Ibrahim [2022] eKLR

Court's Findings

- The High Court found that the ARA had established, ***on a balance of probabilities,*** that the funds in question were proceeds of crime.

- The court ordered the forfeiture of the funds to the government, emphasizing that the right to property under Article 40 of the Constitution does not extend to property acquired unlawfully.

Significance

- This case highlights the use of Civil Forfeiture under POCAMLA to recover assets suspected to be linked to criminal activities, even in the absence of criminal charges.

- The underscoring legal principle is that you must provide satisfactory explanations for substantial funds in their possession, especially when linked to public entities.

Lessons from the above cases

- Prosecuting ML as a stand alone criminal offence is still a challenge.

- Criminal Proceedings are very lengthy and the threshold is very high(Beyond reasonable doubt)

- As a remedy, undertake parallel/complementary investigations for which you may get successful convictions e.g. Financial investigations, focusing on the predicate offence and the money laundering offence simultaneously.

- Proactive financial investigations of the predicate offence identifies the proceeds of the crimes early enough to commence seizure/restraint proceedings.

- Consider Civil Proceedings e.g. Civil Forfeiture – Be Prompt with this

Investigating ML cases

- Financial information are critical for any parallel investigation into the predicate offences by:
  - Identifying motives, associations and links to people and places.
  - Identifying the use of other services such as phones, transport and amenities relevant to the case.
  - Locating or identifying suspects, witnesses or victims.
  - Providing information on a suspect's movements (proactive, covert use of financial information).
  - Providing information to address the issue of prolific and priority offenders where no previous method has been successful.
  - Tracing persons.

Methods of Investigations

- Financial investigators must be proficient in the **various methods** of proving income and determining which method is applicable, based on the facts and circumstances of a particular investigation.
  - Direct Evidence
  - Circumstantial Evidence

- The investigator can use direct evidence, as in the specific items method of the financial documentary evidence analysis.

- Identify and document the movement of money during the course of the commission of an offence. 'Follow the money'

- Conduct analysis of financial documentations(data intensive evidence)

Methods of Investigations

- Or the Investigator can prove this circumstantially, i.e. through indirect methods of proof:
  - net worth and expenditures,
  - sources and applications and
  - bank deposits analysis

Financial Investigations in ML

- The major goal in a financial investigation is to identify and document the movement of money during the course of the commission of an offence.
- The link between where the money came from, who received it, when it was received, and where it is stored or deposited can provide proof of criminal activity;
- One of the biggest challenges in asset recovery investigations is;
  - Producing the evidence that links the assets to the criminal; or
  - Proving that assets are a benefit derived from an offence committed by the suspect.
- Investigators must identify and trace illicit assets up to the point where the link with the offence or location of the assets can be determined.
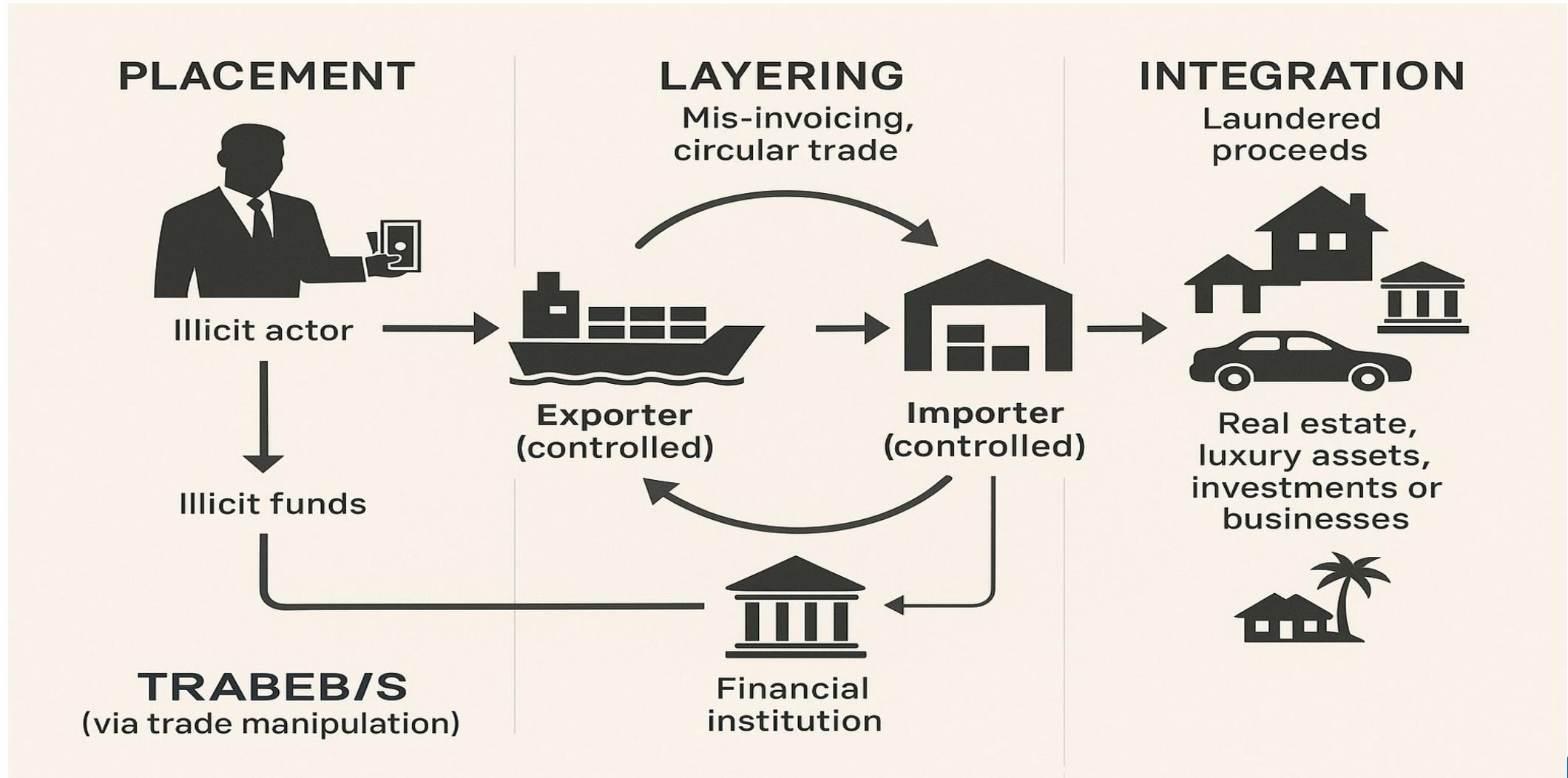
Trade Based Money Laundering - Indicators

- Entrepreneur demonstrates poor knowledge of business

- Goods or services not fitting company's profile

- Transactions without relevant supporting documents

- Transactions with offshore companies

- Transaction with known/suspected criminals or their partners

- Ownership of a chain of unrelated businesses

- Unusual pricing

Trade Based Money Laundering

Trade Based Money Laundering

Placement

Objective: Introduce illicit funds into the financial system.

An **illicit actor** (e.g., drug trafficker, corrupt official) generates illegal profits.

These illicit funds are passed to a **controlled exporter** (a company secretly owned or influenced by the actor).

This exporter creates **fake trade documents** to justify receipt of the money under the guise of international trade.

Layering (via Trade Manipulation)

Objective: Obscure the origin of the illicit funds through complex trade transactions.

The exporter **mis-invoices** goods — under- or over-valuing them to manipulate the flow of money.

The goods are "sold" to a **controlled importer** (usually in another country), often at manipulated prices.

In a **circular trade loop**, the same goods or documents might be sent back to the exporter, creating a cycle that hides the paper trail.

A **financial institution** processes the trade-related payments, unaware they are laundering illicit money.

Key Companies TBML

- Illicit Actor (Source of dirty money)

- Exporter (Controlled) – Often over- or under-values goods

- Importer (Controlled or Colluding) – Receives goods and facilitates invoice fraud

- Financial Institutions – Handle payments and financing

- Shell Companies – Used to obscure ownership

Crypto Crime

- Where are we seeing crypto in crime? **Everywhere.**
- Examples:

Cybercrime

- Ransomware
- Programmatic money laundering
- Darknet markets
- Business email compromise
- Crypto-market manipulation
- Exchange hacks
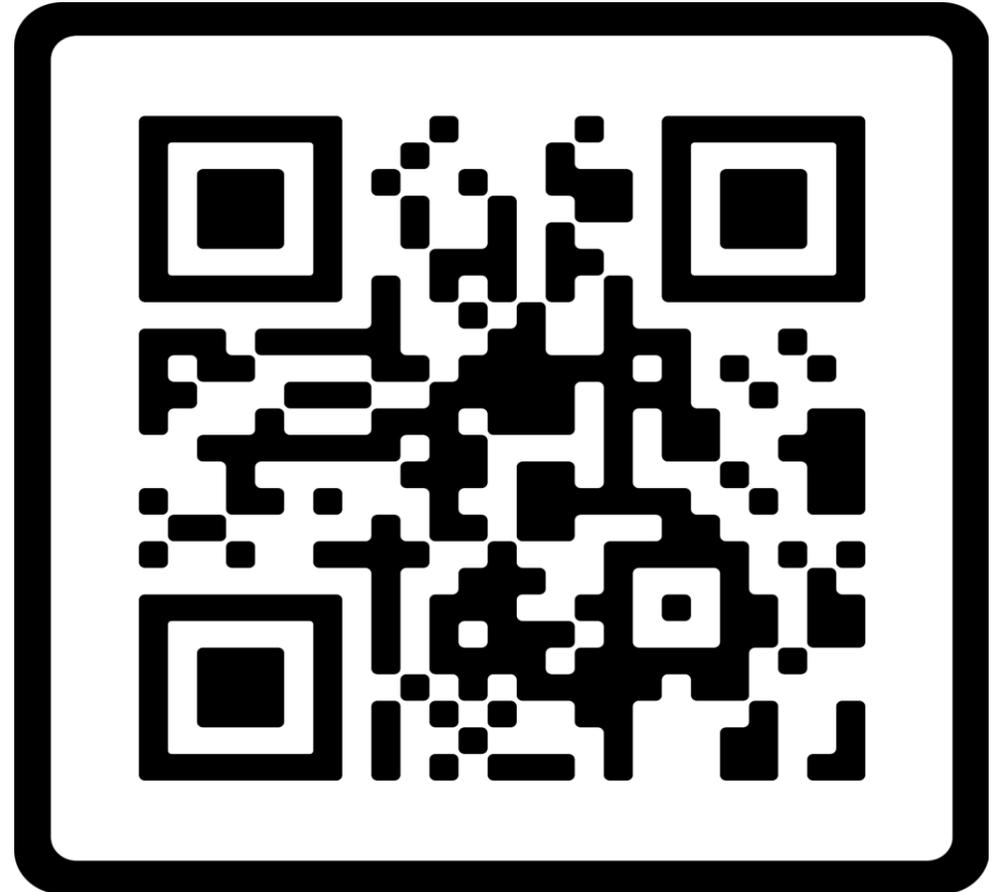- Defi exploits

Traditional crime

- Money Laundering
- Terrorist Financing
- Fraud
- ICO scams
- Ponzi schemes
- Romance scams
- Money mules
- Extortion
- Investment fraud
- Credit card theft

Crypto Based ML Investigations

- **Crypto Terms, What do you know?**

https://docs.google.com/forms/d/17OzSoH9WzBaDwD1b_b-E_pD-qxCld1fa5pFZcBKNVb4/edit

Crypto Crime and ML

Digital Assets may be involved in any of the stages of money laundering:

- **Predicate crime**: for example, raising funds through illegal activity by selling illegal goods or services in return for crypto-assets.

- **Placement:** converting crypto-assets into fiat currencies within a traditional financial system.

- **Layering:** Converting fiat assets into crypto-assets, exchanging crypto-assets (including through mixers), conversion between crypto-assets and converting crypto-assets into fiat currencies.
  - Large amounts of crypto-assets may be split into less conspicuous, smaller sums stored in many custodian wallets. These sums are then converted into fiat through cryptocurrency exchange platforms, or alternatively through 'clean' wallets in return for commission.
  - Moving, converting or placing illegal funds.
  - Layering fiat funds through a series of conversions or movements to distance them from their source.

- **Integrating** funds into the legitimate economy. The launderer might choose to invest the funds into real estate, luxury assets, or business ventures

Some key points around crypto:

- All crypto related crime is financial crime and Financial crime is not new to us.

- Digital assets are a mechanism to move funds

- SOME forms of crime benefit from crypto; ALL forms of investigation can benefit from crypto (DLT)

- Blockchain provides traceable data, permanently records, publicly accessible, forensic evidence

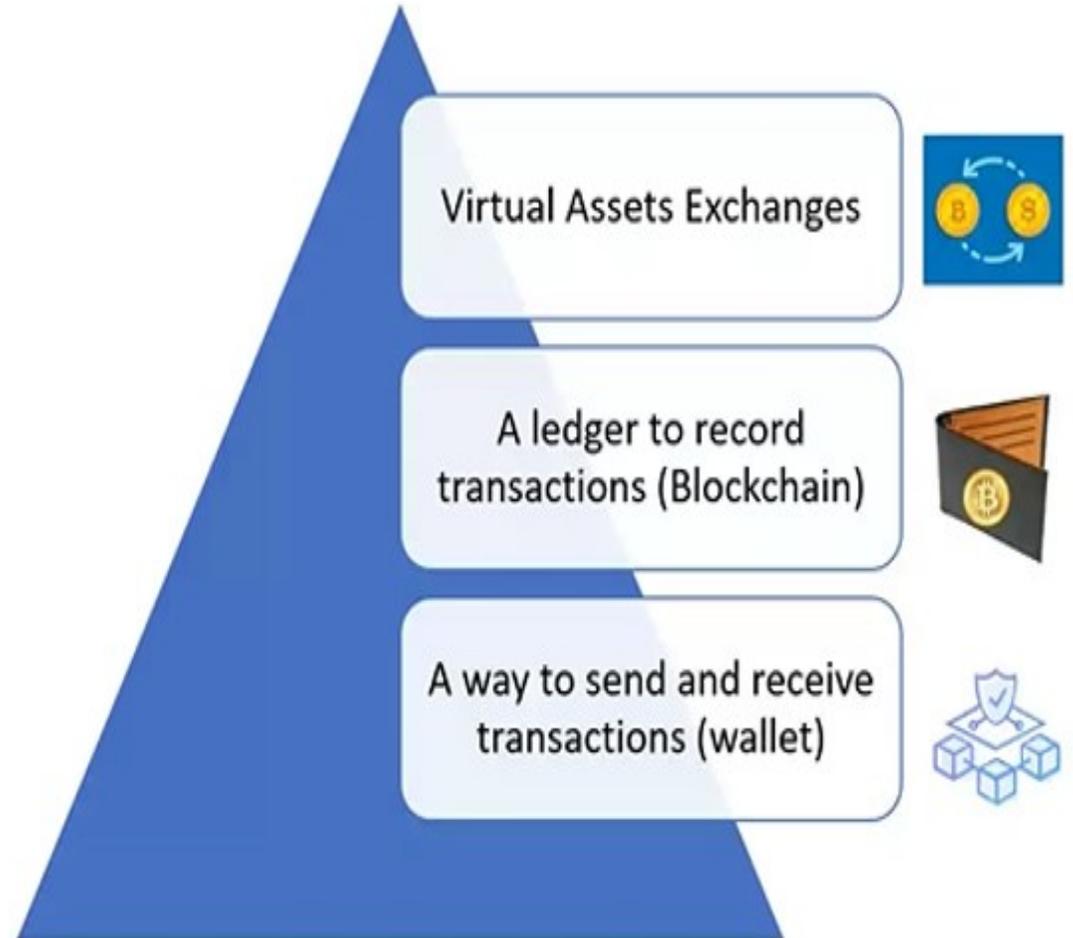- Tools available to investigate known crimes and help identify suspect activity

Crypto Based ML Investigations

- **Bottom line:** You need to understand the working mechanism of the following three basic things:

  i. VASPs
  ii. Block Chain
  iii. Wallets management

NB:

- June 2025, Kenya does not yet have an official registry of licensed (VASPs).

- VASP Bill 2025 is under development

- Popular Exchanges: Binance, Bybit, KuCoin, **OKX,** Busha,

- (P2P) Platforms: Paxful, LocalBitcoins

Virtual Assets Exchanges

A ledger to record transactions (Blockchain)

A way to send and receive transactions (wallet)

Actors and Entities in Crypto Value Chain

Which of the following are within your investigations scope?

Exchanges - A cryptocurrency exchange is a digital marketplace where users can buy, sell, and store digital assets.

- A custody service - company that specializes in storing and administrating large amounts of digital assets for others

- Decentralized Finance (DeFi) tools are built on a blockchain and work without intermediaries such as exchanges, brokerages or banks.

- **Investment and Lending Services** - service platforms allow users to invest directly in digital assets. Lending services facilitate crypto loans, either directly with the service or between its users.

Actors and Entities in Crypto Value Chain

Which of the following are within your investigations scope?

- **Cash-to-Crypto Industry -** enables users to buy crypto for cash at physical locations across the globe. (ATMs/Vouchers)
- **NFT Marketplace -** marketplaces facilitate the purchase, sale, and creation of non-fungible tokens (NFTs), which are linked to digital content
- **Mining Entities -** Mining is the process through which cryptocurrency transactions are gathered, verified, and recorded into a digital ledger known as blockchain. The entities provide the infrastructure.
- **Payment Processors** - facilitate and/or provide digital asset payment rails for merchants accepting cryptocurrencies for goods and services e.g. Paypal
- **Peer-to-Peer Cryptomarkets -** peer (P2P) cryptomarket or crypto exchange offers the direct exchange of digital assets between individual parties without the involvement of a central authority e.g. Paxful.

Virtual Asset Service Providers (VASPs)

- All the above can be broadly classified as VASPs
- VASPs are any natural or legal person that conducts one or more of the following activities or operations for or on behalf of another natural or legal person:
  - Exchange between virtual assets and fiat currencies
  - Exchange between one or more forms of virtual assets
  - Transfer of virtual assets
  - Safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets
  - Participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset On-ramps and off-ramps
 - Offers Third party services to improve access to crypto

Common Instruments for ML

- **Mixing Services: o**bscure the origin and destination of crypto funds by "mixing" coins from multiple users and redistributing them e.g. Tornado Cash.

- **Privacy Coins - Crypto** designed for anonymity and are often harder to trace than Bitcoin e.g. Monero

- Unregulated or Non-KYC Exchanges e.g. P2P Exchanges and Decentralized Exchanges)

- Smart Contracts and DeFi Protocols e.g. Flash Loans(without collateral), Liquidity Pools(deposit crime money for a while then withdraw clean money).

- Obfuscating Wallets and Tools – VPNs for access, Stealth Addresses

- **Tumbling:** Breaking down significant transactions into several smaller, seemingly unconnected ones is known as "tumbling," it further obfuscates the chain of transactions.

- **Layering and Chain Hopping:** Using the different degrees of anonymity each block chain provides, criminals move money between them.

Money Laundering Using Digital Currencies
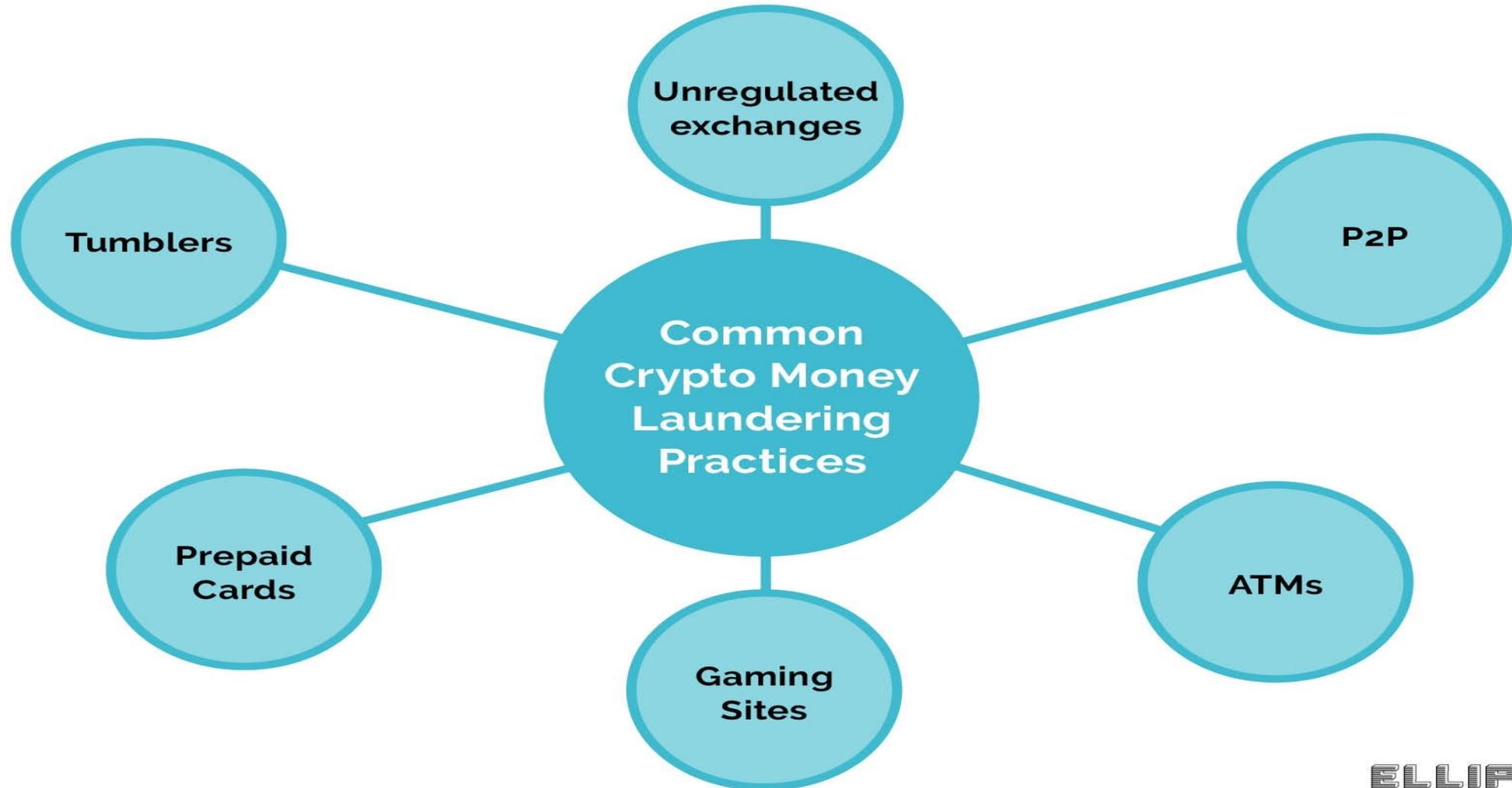
Working with VASPs

- Whether you are a compliance or a law enforcement officer, identifying and working with VASPs is an important part of any crypto investigation.

- VASPs collect many different types of data. These data may include Know Your Customer (KYC), Customer Due Diligence (CDD), and Enhanced Due Diligence (EDD) information, as well as transactional information related to customer accounts.

- When working with VASPs it is important to be detailed in your request for information.

- Just like in EOI, Fishing Expeditions are not allowed; request for specific information e.g. **transaction hash, address of interest, volume of asset** and a **date and time** if possible

Block Chain Explorers

- Blockchain explorers are online tools that allow users to view real-time and historical data stored on a blockchain, including transactions, wallet balances, block confirmations, and smart contracts.

- **Investigative Uses:**
  – Transaction Tracing: Track the flow of funds across wallets.
  – Wallet Attribution: Identify wallets connected to illicit activity.
  – Network Analysis: Map connections between entities or addresses.
  – Time Stamps & Metadata: Determine transaction patterns and timing

Block Chain Explorers

- Explorers provide transparency and traceability, making them essential tools in uncovering illicit financial flows and building evidentiary trails in crypto investigations.

- **Popular Explorers:**
  - **Bitcoin:** blockchain.com
  - **Ethereum:** etherscan.io
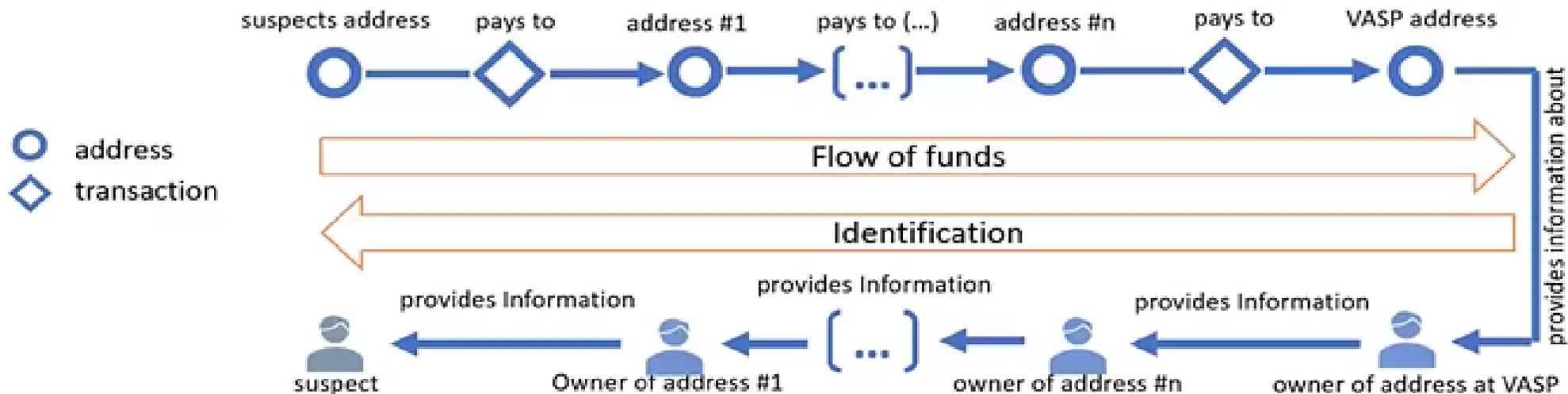 - **Multichain Tools:** Blockchair, Chainalysis Reactor (commercial), TRM Labs

Crypto Based ML Investigations

Transaction Tracing goals

Goal 1. Freezing / Seizing of funds
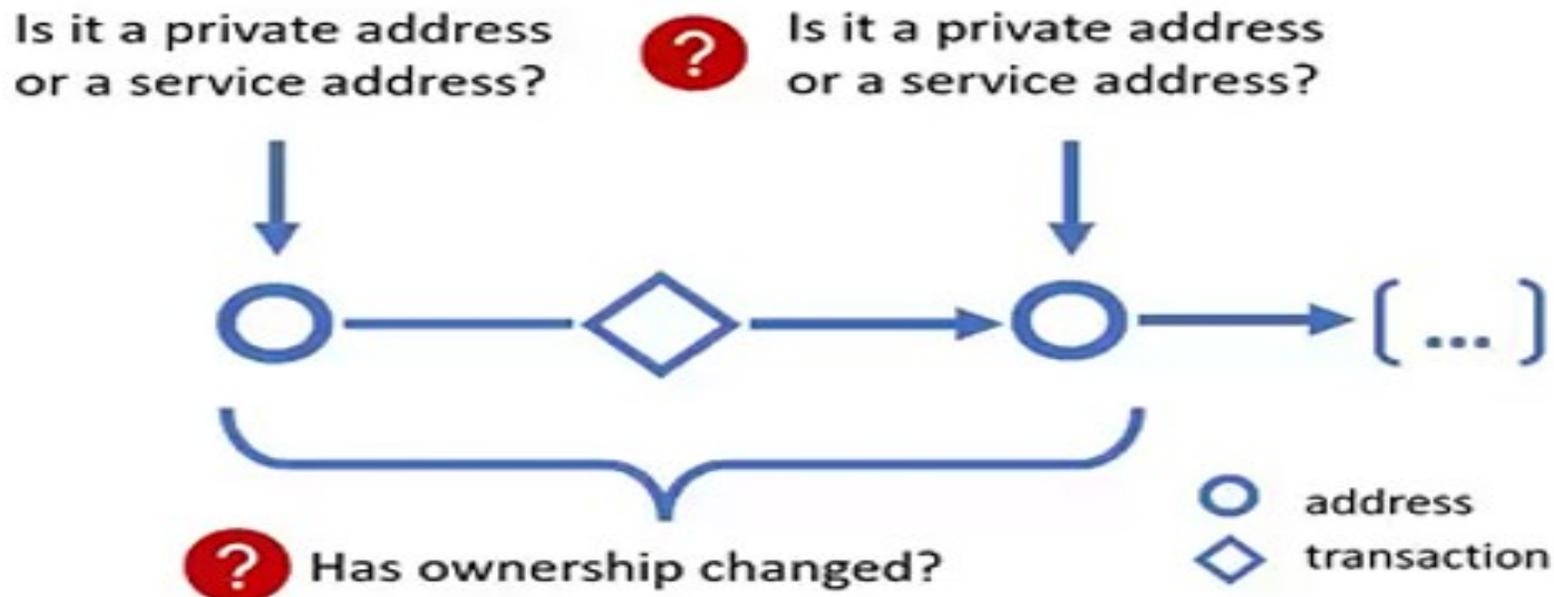
Goal 2. Identification of suspect(s)

Follow the transaction/Asset

- Two question must be answered:
  i.   Has ownership Changed in each transaction?
  ii. Are the sending and receiving addresses operated by an individual or a business?

Practicals on blockchain exploration

- The following two questions can be answered through OSINT research.

i.   What ENS name is associated with the following ETH address:

0x2150dd462b496bd5e4a37b5411c13319427be83e?

Use Free Blockchain Explorer https://etherscan.io/

ii. How many days was this wallet active? - Time factor

16rje84G35KnLqReQ33NBw9UhR9PJ35bvb

Which exchange did it receive Bitcoins from in November 2019.

Try: https://blockpath.com/search/addr?q=16rje84G35KnLqReQ33NBw9UhR9PJ35bvb

Or

https://blockchair.com/bitcoin/transaction/a0ce52cef53f8e1ea6cc6b8f0e802c15188fabe890bb7ca2f8717c38179939a3

ENS Name Use Case

Findings:

- ENS (Ethereum Name Service) converts wallet addresses into human-readable names (e.g., gandalfthebrown.eth for 0x2150...e83e)

- Helps link digital identities to individuals in investigations.

- Can reveal usernames, social profiles, and past transactions

- Enhances traceability and profiling when combined with transaction analysis.

- *Cheeky?? I also Used Chat GPT. Bingo!*

Investigation Strategy

- Investigations involving cryptocurrencies/virtual assets can be resource intensive.
- To minimise the impact you need to carefully consider the parameters required to achieve the outcomes sought.
- **Points to consider:**
  - What are you trying to identify/prove? e.g. real world identity, total value of criminal proceeds...
  - Is blockchain analysis the most efficient means of progressing the investigation?
  - What value does it add and how much should it be prioritised?
  - Is the analysis for intelligence or evidential purposes? How can you transition from one to the other?
  - Are you looking at progressing matters utilising civil or criminal powers?
  - Who is going to take responsibility for any legal process relevant to the analysis e.g. producing statements of evidence, giving testimony at court.

Group Assignment/Contextual Analysis

Prepare a Report to your Central Bank/Financial Regulator answering the following questions:

i. What are the identified risks and challenges of Digital Assets in the Anti ML Initiatives?

ii. Do you have sufficient legal instruments necessary to monitor, trace, freeze illicit VCs under the AML initiatives

iii. What context of existing regulations can be applied to digital currencies. What are you currently using to combat ML through Digital Currencies.

iv. Do your LEAs have sufficient knowledge and experience related to VC to effectively undertake your mandate?

v. What are your recommendations/proposals to the identified challenges/gaps.

The report should be uploaded to I wink by cob End of Course date

Lets do This!

Coming together is a beginning; keeping together is progress; working together is success.

Henry Ford

Feedback Session